

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-459 of 2022 (O&M)

DECIDED ON: 24th November, 2022

Lalit Kumar @ Lalit Sharma

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Shivender Pal Singh, Advocate for
Mr. B.S. Bhalla, Advocate for petitioner.

Mr. Arun Luthra, DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This is third petition under section 439 Cr.P.C. filed for regular bail in case of FIR No. 64 dated 2.4.2020, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 and under Section 188 of Indian Penal Code, 1860, registered at Police Station Jandiala, District Amritsar.

One of the ground for seeking bail is that the trial is not proceeding at a decent pace.

On 19.9.2022, following order was passed:

"This third petition under Section 439 Cr.P.C is filed seeking regular bail in case of FIR No. 64 dated 2.4.2020 under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') and under Section 188 of IPC, 1860 registered at P.S. Jandiala, District Amritsar.

As per the case set up, the petitioner was apprehended on 2.4.2020 in Amritsar while he was riding a motorcycle bearing registration No. PB02-BB-4666. From the bag carried on the fuel tank there was recovery of 6520 intoxicant tablets having Tramadol salt.

Earlier two petitions were dismissed as withdrawn with liberty to the petitioner to revive the prayer at later stage.

Learned counsel for the petitioner submits that the petitioner is in custody since 2.4.2020, he is not involved in any other case and the trial is progressing at a snail pace.

Learned State Counsel submits that there are total seventeen prosecution witnesses and out of them two have been examined. He further submits that all prosecution witnesses are police officials.

One of the main ground pressed for seeking bail is custody period and the pace at which the trial is going on.

The Supreme Court in *Thana Singh vs. Central Bureau of Narcotics*, 2013(2) SCC 603 held as follows :-

“26. A monitoring agency is pivotal for the effective management of these recommendations and for the general amelioration of the state of affairs. Therefore, it is directed that nodal officers be appointed in all the departments dealing with the NDPS cases, for monitoring the progress of investigation and trial. This nodal officer must be equivalent or superior to the rank of Superintendent of Police, who shall ensure that the trial is not delayed on account of non-supply of documents, non-availability of the witnesses, or for any other reason.

27. We have also learnt from the Narcotics Control Bureau that some form of informational asymmetry is prevalent with respect to the communication of the progress of cases between courts and the department. Therefore, there must be one Pairvi Officer or other such officer for each court who shall report the day's proceedings to the nodal officer assigned for that court.”

It would not be out of place to mention that this Court while dealing with the regular bail petitions under the Act was informed that there are specific instructions to ensure the earlier depositions of official witnesses in cases relating to the Act. To maintain balance between stringent provisions and rights under Article 21 of the Constitution of India speedy trial is must.

Considering that no efforts are being made for an early conclusion of prosecution witnesses, especially in cases where the witnesses are police officials, let DGP, Punjab look into the facts of the present case as well as similar cases pending in the State of Punjab.

List on 24th November, 2022."

Today, learned State counsel has filed an affidavit of Mr. Gaurav Yadav, IPS, Director General of Police, Punjab. As per the contents of the affidavit, six official witnesses have deposed in the trial and four police officials have defaulted to get their evidence recorded and initiation of disciplinary proceedings has been recommended.

Learned State counsel on instructions submits that earnest efforts would be made to conclude the prosecution evidence by the end of February, 2023.

In view of the statement made by learned State counsel, the present petition is disposed of at this stage.

There is no doubt that in case a request is made before the Court concerned for accommodating the date for examining the prosecution witnesses, the same would be considered in accordance with law.

Since the main case has been disposed of, the pending application, if any is rendered infructuous.

24th November, 2022

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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>